IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO
WRIT PETITION NO : 21684 of 1994

Between:
Parimalla Venkateswarlu, S/o. Tirupatiah, R/o. Gudur Town, Nellore Dist.

.....
PETITIONER

AND
1 The Joint Collector, Nellore, Nellore Dist.
2 The Mandal Revenue Officer, Gudur, Nellore Dist.
3 Shaik Abdul Raheem, S/o. Gulam Khader Saheb, R/o.Gudur Town, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the Mandal Revenue Officer, Gudur in his proceedings Rc.A99494 dt.21.10.1994 ordering for petitioner's eviction from 4 ankanams of site situated in Ward No.13 of Thurupu Gudur (V),,Nellore Dist, as illegal, arbitrary, violative of the principles of natural justice and molafide, set aside the same and pass such other orders.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY, ADVOCATE

Counsel for the Respondent Nos. 1 and 2: G.P. for Revenue.

Counsel for the Respondent No.3: Mr. K.RAGHUVEER REDDY, ADVOCATE

The Court Made the Following :

ORDER

The petitioner challenges the proceedings in Rc.A 994/94 dated 21-10-1994 passed by the Mandal Revenue Officer, Gudur, the second respondent herein, ordering eviction of the petitioner from the land as illegal and arbitrary and seeks to quash the same.

Heard both sides.

The learned counsel for the petitioner submits that though the petitioner was granted patta to 4 ankanams of site in Ward No.13 of Thurupu Gudur village, Nellore District, the 2nd respondent, without there being any notice issued or enquiry conducted, passed the impugned order directing the eviction of the petitioner . He further submits that since the impugned order is not passed without giving any notice, which is against the principles of natural justice, the same is not sustainable and is liable to be set aside. On the other hand, the learned Government Pleader submits that when the notice was given to the petitioner for production of the original records in respect of genuineness or otherwise of the patta granted to the petitioner, he failed to do so and, therefore, it is not open to the petitioner to challenge the impugned proceedings.

A perusal of the impugned order shows that a notice was issued to the petitioner on 13.10.1994 directing him to appear before the 2nd respondent Mandal Revenue Officer on 19.10.1994 for personal hearing and for production of the records in respect of granting of patta in his favour earlier. It appears that the petitioner failed to produce the relevant material or copy of patta said to have been granted to him earlier. In the absence of production of the relevant material by the petitioner, the impugned order was passed. It is to be seen that the respondents in the notice dated 13-10-1994 except stating that the

enquiry was fixed on 19.10.1994, no opportunity what so ever was given to the petitioner to make his claim that the patta granted to him is genuine. No doubt, it is true that a notice was given to the petitioner by the respondents for production of the relevant records before passing the impugned proceedings. Mere giving a notice to the petitioner fixing the enquiry date and for production of the material by the petitioner on the date so fixed does not amount to giving an opportunity of being heard. Apparently, the impugned proceeding was issued without there being any opportunity of being heard the petitioner while ordering eviction from the land in question. Therefore, in my considered opinion, the impugned proceeding, which is passed in violation of the principles of natural justice, is liable to be set aside. The impugned proceedings are accordingly set aside.

The writ petition is accordingly allowed. No costs.

However, the 2nd respondent is directed to conduct an enquiry afresh after giving notice and opportunity to both the parties and pass appropriate orders in accordance with law.

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2nd July 2004

BJ/Glv

To

1 The Joint Collector,
Nellore, Nellore Dist.
2 The Mandal Revenue Officer,
Gudur, Nellore Dist.
3. Two C.Cs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad.(O.U.T)

4. Two C.D copies.